

JO ANN HOWARD &  
ASSOCIATES, P.C., *et al.*,

Plaintiffs,

VS.

J. DOUGLAS CASSITY, *et al.*,

Defendants.

Case No. 4:09CV01252 ERW

## MEMORANDUM AND ORDER

This matter comes before the Court upon “Plaintiffs’ Motion for *In Camera* Review” [ECF No. 1439].

In an Order dated September 18, 2013, this Court, after weighing the severity of waiving the privilege afforded attorney-client communications against the conduct of certain defendants during the course of discovery in this matter, found that waiver of privilege concerning documents possessed by the Wittner Defendants, among others, was appropriate [ECF No. 1279]. The Court ordered any attorney/client privilege that had been asserted concerning all documents listed in a 47-page privilege log, prepared by Wittner Defendants on behalf of Forever Defendants, and produced to Plaintiffs, be waived, and directed Wittner Defendants to provide revised responses to Plaintiffs' Requests for Production, removing all objections and otherwise complying with the Court's directions in its June 24 Order. The Court reaffirmed this ruling on November 13, 2013, when it denied the Wittner Defendants' motion to reconsider and request for clarification; however, the Court stated it was "willing to conduct an *in camera* review, upon a sufficient showing of the applicability of the attorney-client privilege" [ECF No. 1340].

In their Motion, Plaintiffs report that, in response to the Court's November 13, 2013 Order, the Wittner Defendants sent a revised privilege log, containing 306 entries involving twenty entities and seven individuals, to all parties on December 27, 2013 [ECF No. 1439-2]. Plaintiffs move the Court to conduct an *in camera* review of documents listed on the Wittner Defendants' revised privilege log. Plaintiffs state that many documents listed on the revised log either do not appear to be privileged; were disclosed to third parties, or involve defunct entities. Plaintiffs further state the Wittner Defendants do not oppose the relief requested in this motion, and, upon the Court's request, will produce the documents to the Court for its review. Wittner Defendants did not file a response to Plaintiffs' Motion.

On March 10, 2104, Plaintiffs filed a Stipulated Voluntary Dismissal with Prejudice of Complaint against Wittner Defendants, and on March 12, 2014, this Court, in accordance with the parties' stipulation, dismissed with prejudice, all claims against the Wittner Defendants [ECF Nos. 1446, 1449]. In light of the events occurring in the interim since Plaintiffs' Motion for *In Camera* Review was filed, the Court hereby directs Plaintiffs to file a Status Report regarding the viability or mootness of their Motion, indicating whether the issue was resolved during the negotiations leading to the voluntary dismissal with prejudice.

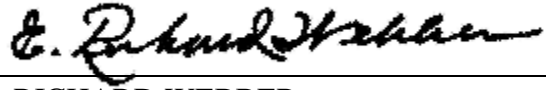
Accordingly,

**IT IS HEREBY ORDERED** that "Plaintiffs' Motion for *In Camera* Review" [ECF No. 1439] is **HELD IN ABEYANCE**, pending receipt of a Status Report provided by Plaintiff.

**IT IS FURTHER ORDERED** that Plaintiffs shall file a Status Report regarding

“Plaintiffs’ Motion for *In Camera* Review,” within ten (10) days of this Order.

Dated this 27th day of March, 2014.

A handwritten signature in black ink, appearing to read "E. Richard Webber", written in a cursive style.

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E. RICHARD WEBBER  
SENIOR UNITED STATES DISTRICT JUDGE